

# United States Senate

WASHINGTON, DC 20510

October 1, 2018

The Honorable Mick Mulvaney  
Consumer Financial Protection Bureau  
1700 G Street, NW  
Washington, DC 20552

The Honorable Jerome H. Powell  
Chair  
Board of Governors of the Federal Reserve  
System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

The Honorable Joseph M. Otting  
Comptroller of the Currency  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street, SW  
Washington, DC 20219

The Honorable Jelena McWilliams  
Chair  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> St, NW  
Washington, DC 20429

Dear Mr. Mulvaney, Comptroller Otting, Chair Powell, and Chair McWilliams:

We are concerned that recent reports, including the Office of the Comptroller of the Currency's (OCC) own horizontal sales practices review, indicate that weaknesses around sales practices, incentive compensation programs, and policies regarding account openings and closings persist across the banking industry and may result in additional harm to consumers.<sup>1</sup> As such, we respectfully request information on whether your agencies are incorporating reviews of sales practices and related matters into ongoing supervision of regulated institutions.

The Wells Fargo fraudulent account scandal shined a light on dangerous industry practices in which banks place punishing, and oftentimes, impossible sales goals on front line employees.<sup>2</sup> These sales goals are often tied to compensation incentives, which provide modest yet critical pay increases to employees who earn a median wage of only \$13.52 per hour.<sup>3</sup> In recently released documents from the agency's horizontal sales review, the OCC stated that incentive compensation programs can motivate employees to engage in harmful activities to "maximize

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<sup>1</sup> Anastasia Christman, *Cashing Out: How Bank Workers are Faring Almost Two Years After the 2016 Fraudulent Sales Scandals*, National Employment Law Project, June 2018, available at [https://betterbanks.org/wp-content/uploads/2018/06/Cashing\\_Out\\_Report.pdf](https://betterbanks.org/wp-content/uploads/2018/06/Cashing_Out_Report.pdf).

<sup>2</sup> Press Release, Office of the Comptroller of the Currency, OCC Assesses Penalty Against Wells Fargo, Orders Restitution for Unsafe or Unsound Sales Practices, Sept. 8, 2016, available at: <https://www.occ.treas.gov/news-issuances/news-releases/2016/nr-occ-2016-106.html>.

<sup>3</sup> Department of Labor, Bureau of Labor Statistics, *Occupational Outlook Handbook*, Tellers, available at <https://www.bls.gov/ooh/office-and-administrative-support/tellers.htm#tab-1>.

their earnings potential.”<sup>4</sup> Persistently underpaid bank employees are then left with no choice, and are in fact incentivized, to try to meet these unreasonable goals if they hope to increase their pay.

Due to concerns that Wells Fargo was not the only bank engaged in such practices, in 2016 former Comptroller Thomas J. Curry directed a horizontal review of sales practices at banks supervised by the OCC. The sales practice inquiry, which covered more than 40 national banks and federal savings associations, resulted in 252 Matters Requiring Attention (MRA), including five industrywide MRAs.<sup>5</sup> Most banks included in the review received at least one MRA.<sup>6</sup> Additionally, during Comptroller Otting’s June testimony in front of the Senate Banking Committee, Comptroller Otting announced that 20,000 bank accounts may have been opened without customers’ authorization.<sup>7</sup> The quantity and scale of the MRAs suggest that abusive sales practices were, and continue to be, more prevalent across the industry than previously understood.

Additionally, a recent report by the National Employment Law Project (NELP) indicates that bank employees continue to feel pressure to meet demanding sales goals.<sup>8</sup> For example, 56 percent of employees surveyed reported that their goals were based on the amount of sales made, not customer satisfaction. Furthermore, 90 percent of bank employees surveyed stated that failure to meet sales quotas still results in bullying, disciplinary action or possible termination. The experiences of frontline workers are testament to the continued pervasiveness of harmful sales practices in the banking industry.

Both the NELP report and the OCC’s own review suggest that banks continue to perpetuate sales cultures that may cause unsafe or unsound banking practices or result in consumer harm. To ensure such practices are addressed and consumers are protected, we respectfully request you provide answers to the following questions:

- 1) Are your agencies incorporating reviews of sales practices and related matters into ongoing supervision of regulated institutions? If so, please describe how such reviews have been integrated into your supervisors’ oversight policies. If your agency does not incorporate review of sales practices and related matters in ongoing supervision of regulated institutions, please explain why.

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<sup>4</sup> Office of the Comptroller of the Currency, “Sales Practice Horizontal Review,” available at <https://assets.sourcemedia.com/99/26/ae75dd304cc0ad6ea47d965ce519/sales-practices-horizontal-review-092418.pdf>.

<sup>5</sup> Kevin Wack, *Wells Fargo not alone: OCC finds sales abuses at other banks*, AMERICAN BANKER, June 5, 2018, <https://www.americanbanker.com/news/not-just-wells-fargo-occ-finds-sales-practice-abuses-at-other-banks?brief=00000158-07c7-d3f4-a9f9-37df9bc10000> (last visited Jun 7, 2018).

<sup>6</sup> *Id.*

<sup>7</sup> *Update from the Comptroller of the Currency: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 115th Cong. (2018) (statement of Joseph Otting, Comptroller of the Currency), available at <https://www.banking.senate.gov/hearings/update-from-the-comptroller-of-the-currency>.

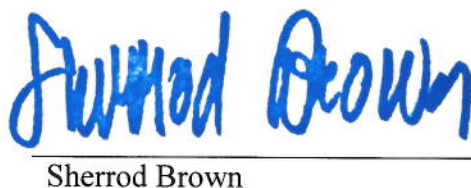
<sup>8</sup> Anastasia Christman, *Cashing Out: How Bank Workers are Faring Almost Two Years After the 2016 Fraudulent Sales Scandals*, National Employment Law Project, June 2018, available at [https://betterbanks.org/wp-content/uploads/2018/06/Cashing\\_Out\\_Report.pdf](https://betterbanks.org/wp-content/uploads/2018/06/Cashing_Out_Report.pdf).

- 2) Do your agencies have any plans to incorporate input from frontline employees, in the form of surveys or interviews, as part of the examination process? If so, please describe any such efforts.
- 3) In addition to the OCC's horizontal review of sales practices, are your agencies analyzing and investigating the potential risks aggressive sales practices and related matters can pose at both the institutional level but also the banking system, as a whole? If so, please describe any such efforts.

We appreciate your attention to this matter and look forward to your response by October 19, 2018.

Sincerely,

  
Robert Menendez

  
Sherrod Brown

  
Jack Reed

  
Elizabeth Warren

  
Chris Van Hollen

  
Catherine Cortez Masto